



## COMMITTEE MEMORANDUM

TO: Commissioner Matti Bower, Chairperson  
Commissioner Luis R. Garcia, Jr., Chairperson  
**Members of the Ad Hoc Condominium Reform Taskforce**  
VACANT – Appointed by Commissioner Matti Bower  
Nina Baliga – Appointed by Commissioner Luis R. Garcia, Jr.  
VACANT – Appointed by Commissioner Richard Steinberg  
Joe Fontana – Appointed by Commissioner Saul Gross  
Michael C. Gongora – Appointed by Commissioner Richard Steinberg  
Calvin Kohli – Appointed by Commissioner Saul Gross  
Luis Maseda – Appointed by Commissioner Jerry Libbin  
Milli Membiela – Appointed by Commissioner Simon Cruz  
Barbara Montero – Appointed by Commissioner Jerry Libbin  
Maria Elena Negrin – Appointed by Commissioner Luis R. Garcia, Jr.  
Rocio Sullivan – Appointed by Commissioner Simon Cruz  
Stevan M. Zaiman – Appointed by Commissioner Matti Bower  
Morris Sunshine- Appointed by Mayor David Dermer  
Justo Gomez- Appointed by Mayor David Dermer

FROM: City Manager, Jorge M. Gonzalez

DATE: May 30, 2006

SUBJECT: **Meeting of the Ad Hoc Condominium Reform Taskforce**

A meeting of the Ad Hoc Condominium Reform Taskforce has been scheduled for May 30, 2006 at 6:00PM in the City Manager's Large Conference Room. The items on this agenda are the items that were on the May 16, 2006 meeting agenda, said meeting was cancelled.

### AGENDA

1. Minutes of the May 2, 2006 Ad Hoc Condo Reform Taskforce
2. Discussion regarding the future of the Taskforce (possibility of making it a permanent committee, a type of local "ombudsmanship" for Miami Beach)
3. Discussion regarding eliminating the TCO process for Miami Beach
4. Written Report by City Attorney's Office on legal liability to the City, if any, created by courtesy noticing owners of violations to common areas
5. Written Report by City Attorney's Office on how to address the following recommendation:  
Amend the City's Occupational Code Provisions—Provisions could be considered that would require condominium associations, at license renewal, to provide confirmation that all unit owners have been provided notice of all code violations in the building's common areas.

- 6. Report on mechanism the City proposes for courtesy noticing all owners when a condominium's common area receives a violation- City Manager's Office**
- 7. Presentation of draft ordinance that would make it compulsory through the City Code for condominium associations to notify unit owners of code violations in common areas as well as an enforcement mechanism to accomplish this (City Attorney's Office)**
- 8. Resignation letter of Ad Hoc Condo Taskforce Member**

# **Minutes of the May 2, 2006 Ad Hoc Condo Reform Taskforce**

**I  
T  
E  
M  
  
O  
N  
E**



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: May 16, 2006

SUBJECT: **MINUTES OF THE AD HOC CONDOMINIUM REFORM TASKFORCE MEETING OF MAY 2, 2006**

The meeting of the Adhoc Condominium Reform Taskforce was held on Tuesday, May 2, 2006. **The attendees were as follows:** Taskforce members Commissioner Matti Herrera Bower, Commissioner Luis R. Garcia, Jr., Joe Fontana, Justo Gomez, Michael C. Gongora, Calvin Kohli, Luis Maseda, Barbara Montero, Morris Sunshine, Maria Elena Negrin, Rocio Sullivan and Stevan M. Zaiman

**Absent:** Alex Annuziato, Nina Baliga

**City Staff:** Dolores M. Mejia, Special Projects Administrator; Tim Hemstreet, Assistant City Manager and Rhonda Montoya Hassan First Assistant City Attorney

### 1. Minutes of the April 4 , 2006 Ad Hoc Condo Reform Taskforce

*MOTION: Motion to approve minutes made by Joe Fontana; Seconded by Calvin Kohli.*

*VOTE: Unanimously approved*

### 2. Report by City Attorney's Office on how to address the following recommendation:

**Amend the City's Occupational Code Provisions**—Provisions could be considered that would require condominium associations, at license renewal, to provide confirmation that all unit owners have been provided notice of all code violations in the building's common areas.

*Requests made by Commissioner Garcia:*

- *Have opinions from the City Attorney's Office submitted in written form to be included in the agendas*
- *Request to have attorney present from the City Attorney's Office*
- *Progress Report to Commission on May11,2006 Commission Meeting*

*MOTION made by Joe Fontana – City Attorney ordinance to make it compulsory for the City Code Condo Association to notify unit owners of Code Violations. Legal to find an enforcement mechanism.*

*Seconded by Justo Gomez*

- *Unanimously approved*

**3. Progress report to Committee**

*Announced resignation of Frank Del Vecchio. Request that resignation letter be included in the next Taskforce Agenda.*

*Announced the removal of Alex Annunziato from the Taskforce due to 4 absences. Dolores Mejia to notify the City Clerk.*

*MOTION made by Joe Fontana: Change composition of taskforce alternate chairmanship alternate chairmanship between Commissioner Garcia and Commissioner Bower. Under this scenario, one of the Commissioners would serve as a non-voting observer. This would alternate every other meeting as noted above.*

*Seconded by Calvin Kohli*

- *Unanimously approved*

**4. Report on whether a courtesy notice can be sent to all owners when a condominium's common area receives a violation.**

*Request from Commissioner Bower:*

*Legal – research if sending a courtesy notice about violations in common areas will pose any liability.*

*MOTION made by Morris Sunshine – approve #4 on the agenda – go forward with courtesy noticing.*

*MOTION made by Maria Elena Negrin – change the City of Miami Beach's procedure for noticing condo associations/"owners" of violations in common areas and to post violations regardless of whether condominium association/"owners" accepts noticing/receives.*

*Seconded by Justo Gomez*

- *Unanimously passed*

*MOTION made by Rocio Sullivan – City of Miami Beach send courtesy notice to all unit owners when there is a violation in a common area.*

*Seconded by Calvin Kohli.*

- *Unanimously passed.*

*Commissioner Bower – staff to review which violations should be included in courtesy notices.*

**MOTION TO ADJOURN: Motion made by Commissioner Bower; All in favor.**  
**VOTE: Meeting adjourned.**

# AD HOC CONDOMINIUM REFORM TASKFORCE MEETING

Tuesday, May 2, 2006 @ 6:00 P.M.

City Manager's Large Conference Room

## Attendance Sheet

NAME	E-MAIL ADDRESS	CONTACT NUMBERS	FAX NUMBER
1. Luis D. Maseda	AMW @ OPREACTY.COM	305-861-0054	861-0054
2. Joe Fontana	@		
3. J.V. HERMAN	1130 11 <sup>TH</sup> ST, UNIT @4A, M.B., FL 33139	305-534-1953	N/A
4. JOSTO GONZALEZ	JGONZ2400 @ AOL.COM	305-861-8155	
5. Steven Zaimal	SZaimal @ cgethlink.net	786-246-1618	
6. M. Surasheim	465 Ocean @	305-672-2898	
7. Barbara Montero	Wm @ the-beach.net	305-673-2812	
8. MARIA ELENA VECCHI	GALLANDER6 @ BELLS	7-367-7112	
9. Alvin Kohli	CKohli @ AOL.COM	305-315-6210	305-947-6699
10. Phil Mombely	Memvil @ AOL.COM	305-815-5148	305-538-0328
11. Andres R. Villanaral	AVillanaral @ Miami Beach FL.gov	305-673-7000 ext6551	
12. Michael Gonzaga	mgongora @ becker-police.off.com	305-260-1014	305-442-2232
13. Michael Koch	KochGene @ AOL.COM	786-486-2143	
14. Marilyn Saramillo	MS16 @ NTRS.com	305-789-15-23	
15. SIDNEY GOLDIN	@	305-866-8066	
16. Luis R. Garcia	LOUIS @ MIAMI BEACH FL.GOV	305-673-7105	
17. Mattie Brakes	@		
18. Rocio Sullivan	rosullivanyc @ msn.com	(786) 210-6250	(305) 531-2322
19.	@		
20.	@		

**Discussion regarding the future of the Taskforce (possibility of making it a permanent committee, a type of local “ombudsmanship” for Miami Beach)**

**(DISCUSSION ONLY)**

**I  
T  
E  
M  
T  
W  
O**

# Discussion regarding eliminating the TCO process for Miami Beach

I  
T  
E  
M  
  
T  
H  
R  
E  
E






CITY OF MIAMI BEACH  
City Attorney's Office  
Memorandum

---

**To:** Ad Hoc Condominium Reform Taskforce

**Date:** May 12, 2006

**From:** Rhonda Montoya Hasan   
First Assistant City Attorney  
Legal Advisor, Building and Fire Departments

**Subject:** Temporary Certificates of Occupancy (TCO's)

---

Under the Florida Building Code, the authority to extend TCO's rests with the City's Building Official. <sup>1</sup> The Building Official has the discretion to extend or deny any TCO request. If a building does not have a valid TCO (or CO), it may be subject to immediate closure and the vacation of its residents.

I am advised by the Building Official that any and all requests will be treated on a case by case basis as it is done in the rest of the State.

If I may be of further assistance, please advise.

RMH:mm

---

<sup>1</sup> This is a change from the South Florida Building Code which allowed the Building Official to extend a TCO one time. After the initial extension, all requests for extensions of TCO's were reviewed and ruled on by the Miami Dade County Board of Rules and Appeals.

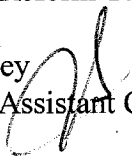

**Written Report by City Attorney's Office on legal liability to the City, if any, created by courtesy noticing owners of violation to common areas**

**I  
T  
E  
M  
  
F  
O  
U  
R**

**CITY OF MIAMI BEACH  
OFFICE OF THE CITY ATTORNEY**

**MEMORANDUM**

TO: Ad Hoc Condominium Reform Task Force

FROM: Jose Smith, City Attorney   
Debora J. Turner, First Assistant City Attorney 

SUBJECT: Legal Liability to the City, if any, Created by Providing Courtesy Notice of Violations in Common Areas to Condo Owners

DATE: May 23, 2006

---

**QUESTION:**

WHETHER LEGAL LIABILITY CAN BE IMPOSED ON THE CITY FOR GIVING A COURTESY MAILED NOTICE OF CONDOMINIUM COMMON AREA VIOLATIONS TO ALL CONDOMINIUM UNIT OWNERS.

**SHORT ANSWER:**

A courtesy notice which is not required by law, which does not replace other notices required to be given, is unlikely to establish an estoppel or a damages claim against the City. Estoppel is found against public bodies only in rare circumstances. A claim made by a person who failed to receive the courtesy notice would not estop the City from pursuing violations against the condominium association and would unlikely result in a detriment to a unit owner which would give rise to liability on the City.

**DISCUSSION:**

In general, the giving of courtesy notice does not create legal rights that would not otherwise exist. See Carlos Estates, Inc. v. Dade County, 426 So. 2d 1167 (Fla. 3<sup>rd</sup> DCA 1983) (courtesy notice of a special exception hearing did not "ipso facto" give neighbors standing to appeal; standing was found where a neighbor was amongst those deemed to be entitled to notice pursuant to county code) and F & R Builders, Inc. v. Duran, 390 So. 2d 784 (Fla. 3<sup>rd</sup> DCA 1980) (courtesy notice did not afford standing and did not enlarge upon rights as defined by county code). "The instances are rare indeed when the doctrine of equitable estoppel can effectively be applied against state action. It will be invoked only under very exceptional circumstances." North American Company v. Green, 120 So. 2d 603, 610 (Fla. 1960). Accord Calusa Golf, Inc. v. Dade County, 426 So. 1165, 1167 (Fla. 3<sup>rd</sup> DCA 1983) ("Equitable estoppel is to be applied against the state only in rare instances and under

exceptional circumstances.”). In order to sustain a claim of estoppel against the state, or one of its political subdivisions, “there must be (1) a representation as to some material fact by the party estopped [e.g., the City] to the party claiming estoppel [e.g., the unit owner]; (2) reliance upon the representation by the party claiming estoppel; and (3) a change in such party’s position caused by his reliance on the representation to his detriment.” Id. See also Lewis v. State, Dept. of Health and Rehabilitative Services, 659 So. 2d 1255, 1257 (Fla. 4<sup>th</sup> DCA 1995) (“the Court found no detrimental change in position occurred where the only harm was the inability to retain money which should have never been received in the first place.”) (Citations omitted) and Lyon v. Lake County, 765 So. 2d 785, 791 (Fla. 5<sup>th</sup> DCA), rev. denied, 790 So. 2d 1105 (Fla. 2001) (where one element of estoppel fell, the entire cause of action fell).

In the context of notice cases, “estoppel requires reliance, either on a *misrepresentation* of fact or on the failure to receive notice when notice is required, and a detrimental change of position. Florida Crushed Stone Company v. American Home Assurance Company, 815 So. 2d 715 (Fla. 5<sup>th</sup> DCA 2002) (Emphasis added).<sup>1</sup> Moreover, an “*omission* sufficient to invoke the doctrine of equitable estoppel” requires “a negligent or culpable omission where the party failing to act was under a duty to do so. ... In the absence of such a duty, silence or action will not operate to work an estoppel.” 22 Fla. Jur. 2d “Estoppel and Waiver” § 51. Further, one claiming estoppel on the basis of another’s omission must show that he or she “justifiably relied” thereon to his or her prejudice<sup>2</sup> and that such reliance and conduct to his or her prejudice, was intended or reasonably anticipated by such other person. Id. Here, the City is under no duty to provide courtesy notice to persons who would not otherwise be required to receive notice and, barring some egregious and intentional misrepresentation of information, would not likely be subject to liability.

Therefore, it is unlikely that an argument could be made to support an estoppel or damage claim against the City for merely providing courtesy notice to persons who would not otherwise be required to receive such notice, and where such courtesy notice was given merely as a public service to provide public information. Moreover, the required notice to the violator, i.e., the condominium

---

1 Although a remote possibility, a unit owner could, for example, receive an erroneous notice of a serious violation that did not exist, rely upon that notice to his/her detriment (i.e., enter into a sales agreement that he/she would not have otherwise entered), and thereby detrimentally changed his/her position due to the misrepresentation.

2 To avoid any such reliance, the following language should be included with the courtesy notice:

**This courtesy notice is not required by law and in no way confers any rights upon any persons or creates any liability on behalf of the City. This courtesy notice, or any future courtesy notice, does not create any expectation that courtesy notices will be given in the future and it is not to be relied upon for any purpose.**

Memorandum to Condo Task Force

5/26/2006

Page 3 of 3

association, would still be given. See Wells v. Village of Liberty Bell, 505 N.E. 2d 740 (Ill. App. Ct. 2d Dist. 1987) (courtesy notice to nearby property owners did not rise to level of a self-imposed, legally binding obligation and village was not estopped from rezoning property based upon past customary practice of providing notice; failure to provide courtesy notice did not work sufficient detriment, moreover the required publication notice to the community was given).

DJT/sc

**Written Report by the City Attorney's Office on  
how to address the following  
recommendation:**

**Amend the City's Occupational Code  
Provisions**—Provisions could be considered that  
would require condominium associations, at license  
renewal, to provide confirmation that all unit owners  
have been provided notice of all code violations in  
the building's common areas.

**Memorandum to be distributed at meeting**

I  
T  
E  
M  
F  
I  
V  
E

# **Report on mechanism the City proposes for courtesy noticing all owners when a condominium's common area receives a violation**

**I  
T  
E  
M  
  
S  
  
I  
X**



# MIAMI BEACH

## MEMORANDUM

TO: Ad Hoc Condominium Reform Taskforce Name and Title

FROM: Tim Hemstreet, Assistant City Manager

DATE: May 16, 2006

SUBJECT: **Report on mechanism the City proposes for courtesy noticing all owners when a condominium's common area receives a violation.**

Pursuant to your request at the May 4, 2006 Taskforce meeting, the Administration has met and the following is submitted for your review and further discussion at the May 16, 2006 meeting.

- Shall the noticing be done via postcard, in order to minimize staff time processing; and
- Shall IT be directed to create a program which the Clerk's for the Special Master enters only the address of the condo and the computer program printout the name and mailing address of all condo owners on the postcards. IT needs to determine if the printers in the Special Master's office can print postcards. (Some condo's have 400-600 units)
- Legal needs to generate the standard legal notice language which will be preprinted on the postcard.
- Money needs to be added to City Clerk's budget to cover this added expense.

The noticing would be a one –time courtesy notice of the first hearing before a special master to all condo unit owners in the condo when there is/are violations in the common area.



**Presentation of draft ordinance that would make it compulsory through the City Code for condominium associations to notify unit owners of code violations in common areas as well as an enforcement mechanism to accomplish this. (City Attorney's Office)**

**I  
T  
E  
M  
  
S  
E  
V  
E  
N**

# Resignation letter of Ad Hoc Condo Taskforce Member

I  
T  
E  
M  
  
E  
I  
G  
H  
T

*Frank Del Vecchio*  
*301 Ocean Drive Apt. 604*  
*Miami Beach, FL 33139-6991*  
*Tel. 305-672-2486*  
*Fax. 305-672-0807*  
*e-mail: frankdelvecchio@att.net*

RECEIVED  
2006 APR 19 PM 4:17  
CITY MANAGERS OFFICE  
BY \_\_\_\_\_

April 19, 2006

Robert Parcher  
City Clerk  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

SUBJ: Resignation From Ad Hoc Condominium Reform Task Force

Dear City Clerk:

This is my resignation from the ad hoc Condominium Reform Task Force, effective this date.

Sincerely,



Frank Del Vecchio

Cc: Commissioner Luis Garcia, Jr.  
Commissioner Matti Bower  
Commissioner Richard Steinberg  
Assistant City Manager Tim Hemstreet



**City of Miami Beach**, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

OFFICE OF THE CITY CLERK, Robert Parcher, City Clerk  
TEL: (305) 673-7411, FAX: (305) 673-7254

May 10, 2006

Mr. Frank Del Vecchio  
301 Ocean Dr #604  
Miami Beach, FL 33139

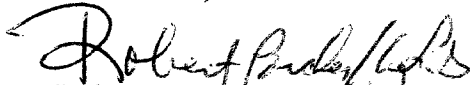
Dear Mr. Del Vecchio

We received your letter of resignation from the **Ad Hoc Condominium Reform Task Force**

The City Commission has requested that I convey to you its appreciation for your contributions of time and effort, and for the interest shown by you throughout your service to this board.

Please note that regrettably, the parking decal will no longer be honored since your term of membership on the committee has ended.

Thank You,

  
Robert E. Parcher  
City Clerk

cc: Saul Frances, Parking Director  
City Commission  
Tim Hemstreet, Asst. City Manager

RECEIVED  
2006 MAY 11 PM 4:20  
CITY MANAGER'S OFFICE  
BY \_\_\_\_\_



**City of Miami Beach**, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

OFFICE OF THE CITY CLERK, Robert Parcher, City Clerk  
TEL: (305) 673-7411, FAX: (305) 673-7254

May 10, 2006

Alex Annunziato  
221 Meridian Ave #304  
Miami Beach, FL 33139

**SUBJECT: AD HOC CONDO REFORM TASK FORCE**

Dear Mr. Annunziato:

The City Clerk's office has been advised that you have failed to attend 4 meetings. Pursuant to City Code 97-3086, if any member of an agency, board or committee fails to attend 33 percent of the regularly scheduled meetings per calendar year, such member shall be automatically removed, pursuant to Ord.No.99-3168, § 22, (9) and a vacancy created.

On behalf of the Commission may we express its regret at your being unable to attend these meetings and express its appreciation for the service rendered during your membership on this committee.

Please note that regrettably, the parking decal will no longer be honored since your term of membership on the committee has ended.

Thank you,

  
Robert Parcher  
City Clerk

cc: Saul Frances  
Tim Hemstreet, Asst. City Manager  
City Commission

RECEIVED  
2006 MAY 11 PM 4:20  
CITY MANAGER'S OFFICE  
BY \_\_\_\_\_